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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,585	08/15/2001	Stephen D. O'Connor	266/263	2200
32763	7590	12/17/2003	EXAMINER	
NANOSTREAM, INC. 580 SIERRA MADRE VILLA AVE. PASADENA, CA 91107-2928			WOOD, KEVIN S	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/931,585	Applicant(s) O'CONNOR ET AL.	
	Examiner Kevin S Wood	Art Unit 2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5,7-10,13,14,20,21,24-27,30,32,33,36 and 42-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,7-10,13,14,24-27,30,32,33,36 and 42-55 is/are allowed.
- 6) ☒ Claim(s) 20,21 and 57-61 is/are rejected.
- 7) ☐ Claim(s) 56 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>0903</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to the applicant's amendment filed on 8 September 2003. Claims 5, 7, 10, 13, 14, 20, 21, 24, 25, 30, 32, 33, and 36 are now amended. Claims 1-4, 6, 11, 12, 15-19, 22, 23, 28, 29, 31, 34, 35, and 37-41 are canceled. New claims 42-61 are now added. Claims 5, 7-10, 13, 14, 20, 21, 24-27, 30, 32, 33, 36, and 42-61 are now pending in the application.
2. Based on the applicant's amendment, the objections to the drawings are withdrawn.

### ***Response to Arguments***

3. Applicant's arguments, filed 8 September 2003, with respect to claims 5, 7-10, 13, 14, 24-27, 30, 32, 33, 36, and 42-55 have been fully considered and are persuasive. The rejections/objections of claims 5, 7-10, 13, 14, 24-27, 30, 32, 33, and 36 have been withdrawn.
4. Applicant's arguments filed on 8 September 2003 with regards to claims 20, 21 and 57-61 have been fully considered but they are not persuasive. New art has been found that has been used to reject claims 20, 21 and 57-61.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 20, 21 and 57-61 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,577,793 to Vaganov.

Referring to claims 20, 21 and 57-61, Vaganov discloses all the limitations of the claimed invention. Vaganov discloses an optical processing system, including: an input light source; an input light coupler (12) for receiving light from the input light source; an output coupler (26) for providing light to an output device; a microfluidic optical device (32,36) for manipulating light, the fluidic optical device being optically coupled between the input coupler and the output coupler; an output device for receiving a beam from the output coupler; a controller (38); a power supply (76); and a sensor, wherein the controller receives a feedback signal from the sensor. See col. 13, line 53 through col. 15, line 2. Vaganov clearly discloses that the transmitting arrays (32) and receiving arrays (36) may include liquid (82,90,110) within them. See the all the Figures of the reference.

***Allowable Subject Matter***

7. Claims 5, 7-10, 13, 14, 24-27, 30, 32, 33, 36, and 42-55 are allowed.

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8. Claim 56 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S Wood whose telephone number is (703) 605-5296. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm). Any attempts to call the examiner after 12 January 2003 should be directed to (571)272-2364.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (703) 308-4819. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 307-0956.

KSW

  
AKM ENAYET ULLAH  
PRIMARY EXAMINER

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